



UNITED STATES DEPARTMENT OF COMMERCE  
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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
08/309,868	09/21/94	YASUJI	H 28

FLYNN, THIEL, BOUTELL & TANIS  
2026 RAMBLING ROAD  
KALAMAZOO MI 49008

A3M1/1015

EXAMINER	
SHERRE, C	
ART UNIT	PAPER NUMBER
1302	13

DATE MAILED: 10/15/97

*Below is a communication from the EXAMINER in charge of this application*

COMMISSIONER OF PATENTS AND TRADEMARKS

ADVISORY ACTION

THE PERIOD FOR RESPONSE:

a)  is extended to run \_\_\_\_\_ or continues to run \_\_\_\_\_ from the date of the final rejection  
b)  expires three months from the date of the final rejection or as of the mailing date of this Advisory Action, whichever is later. In no event however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

Appellant's Brief is due in accordance with 37 CFR 1.192(a).

Applicant's response to the final rejection, filed 10/15/97 has been considered with the following effect, but it is not deemed to place the application in condition for allowance:

1.  The proposed amendments to the claim and /or specification will not be entered and the final rejection stands because:
  - a.  There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.
  - b.  They raise new issues that would require further consideration and/or search. (See Note).
  - c.  They raise the issue of new matter. (See Note).
  - d.  They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
  - e.  They present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: See attachment

2.  Newly proposed or amended claims \_\_\_\_\_ would be allowed if submitted in a separately filed amendment cancelling the non-allowable claims.
3.  Upon the filing an appeal, the proposed amendment  will be entered  will not be entered and the status of the claims will be as follows:

Claims allowed: \_\_\_\_\_

Claims objected to: \_\_\_\_\_

Claims rejected: 2-5 and 11 and 12

However;

Applicant's response has overcome the following rejection(s): \_\_\_\_\_

4.  The affidavit, exhibit or request for reconsideration has been considered but does not overcome the rejection because \_\_\_\_\_  
See attachment

5.  The affidavit or exhibit will not be considered because applicant has not shown good and sufficient reasons why it was not earlier presented.

The proposed drawing correction  has  has not been approved by the examiner.

Other

**ADVISORY ACTION*****Response to Arguments***

The amended claims are not being entered because new limitations have been inserted that were not previously prosecuted. Specifically, the claims are now limited to “a greater amount of biosludge being ozonized and converted into BOD components than excess sludge generated in the bioreactor.” These new limitations raise new issues. For example, there is no antecedent basis for :excess sludge” or “biosludge being ozonized and converted into BOD.” Further, because the specification does not recite~~s~~ this terminology and further because it is not clear how this phrase limits the invention, it is considered that it adds new matter to the application. Lastly, it is not clear if this is a “mandatory” limitation because the previous language only requires ozonating “either aerated aqueous suspension” or “part of the concentrated sludge” and because only the concentrated sludge contains the claimed “biosludge” it is not clear that the claims are necessarily limited by this phrasing.

As to the obviousness rejection based on Dorau in view Hei et al or Berndt or Kramer et al, Applicants essentially present arguments based on the newly presented amended language. Because this language is not being entered at this time for the reasons stated above, these arguments are not found persuasive.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Curtis Sherrer whose telephone number is (703) 308-3847.

The examiner can normally be reached on Monday through Friday from 6:00 to 2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Lacey, can be reached on (703)-308-3535. The fax phone number for this Group is (703)-305-3602.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0651.



Curtis E. Sherrer

October 14, 1997



DAVID LACEY  
SUPERVISORY PATENT EXAMINER  
GROUP 1300

